IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

SECOND APPEAL NO. 454 OF 2006.

Chandrabhan Mathu Sarode & others. ... Appellants.
Versus.
Kantilal Vishwanath Sav. ... Respondent.

Shri G.S.Godbole for the Appellants.

Shri P.G.Lad i/by Shri Sanchin Manale for the Respondent.

CORAM : ABHAY S.OKA, J.

DATED : 26th April, 2006.

P.C.:

1. Heard Shri Godbole for the Appellants. The Appellants are the original Defendants. The suit for possession filed by the Respondent has been decreed by the trial Court. The defence of the Appellants was that they were occupying the suit property as agricultural tenants. The decree of the trial Court has been confirmed in appeal.

2. Shri Godbole for the Appellants submitted that the issue of tenancy was referred to the Agricultural Land Tribunal and without waiting for the final outcome of the reference made, the trial Court decided the suit and passed decree. He submitted that the trial Court could not have decided the suit.

3. I have considered the submissions. The reference has been answered against the Appellants. The

lower Appellate Court has recorded a finding that the finding of the Tribunal has been confirmed in Appeal which is against the Appellants. As the plea of tenancy was not established by the Appellants, the decree for passed by the trial Court has been confirmed. There is no dispute as regards the ownership of the Respondent/ Plaintiff. No substantial question of law arises in the Second Appeal. There is no merit in the Second Appeal. The same is rejected.

Judge.